IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Bail Appl..No. 5668 of 2007()

[CRIME NO.138/2007 OF VADANAPPALLY POLICE STATION]

PETITIONERS/ACCUSED 3,8,9 &12

---

1. JIGILESH,S/O. KRISHNAN,
   KUNNATHERI HOUSE, THALIKULAM VILLAGE,
   CHAVAKKAD TALUK.

2. SAJEEV,S/O. SASI,
   ARUKETTY HOUSE,MADAYAKADAVU DESOM,
   CHAVAKKAD TALUK.

3. SUJITH,S/O. SOMAN,
   VATHATT HOUSE,THALIKULAM VILLAGE,
   CHAVAKKAD TALUK.

4. SUDHEER,S/O. DEVAN,
   ALUNGAL HOUSE,
   THALIKULAM VILLAGE,
   CHAVAKKAD TALUK

BY ADV. SRI.P.K.ANIL

RESPONDENTS: COMPLAINANT/STATE

---

1. THE SUB INSEPCTOR OF POLICE
   VADANAPPALLY POLICE STATION.

2. STATE REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5668 of 2007

Dated this the 19th day of September 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 3,8,9 and 12. They face allegations in a crime registered under Section 120(b), Section 27 of the Arms Act and Section 3 of the Explosive Substances Act. The alleged incident took place on 29/3/2007. When the accused were apprehended, all the others except the first accused took to his heels. First accused was arrested. They had sword, iron pipes etc. in their possession. The petitioners are not named in the F.I.R but had subsequently been arrayed as accused. Investigation is in progress. The petitioners apprehend imminent arrest. The learned counsel for the petitioners submits that the petitioners are innocent. It is prayed that anticipatory bail may be granted to the petitioners.

2. The learned Public Prosecutor opposes the application. He submits that there are no circumstances justifying or warranting the invocation of the discretion under Section 438 Cr.P.C.

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I find no features in this case which can justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

3. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007